

AG Contract No.: KR02-1518TRN
ADOT ECS File: JPA 02-95
Project No. HRF-ORV-0-773
TRACS No. HF073 01C
Section: La Cholla to 1st Avenue
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND THE
TOWN OF ORO VALLEY

THIS AGREEMENT is entered into 30th October, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF ORO VALLEY acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State has approved the exchange of \$1,170,000.00 Highway User Revenue Funds (HURF) in Fiscal Year 2003 to the Town for the construction of improvements to Naranja Dr. - La Canada Drive, and such funds will be repaid to the State by withholding from the Pima Association of Governments (PAG) federal funds and the obligation authority for federal funds in the amount of \$1,428,042.00 in Fiscal Year 2003.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 25596
Filed with the Secretary of State
Date Filed: 10/30/02

Betty Bayless
Secretary of State

By: Dwight D. Greenwald

II. SCOPE OF WORK

1. The Town will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction.

d. Invoice the State for thirty percent of the project cost, at the thirty percent and sixty percent project completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide ADOT with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the Town, PAG, and the State (ADOT) representatives have completed final project review.

2. The State will:

A. Within 30 days after receipt and approval of an invoice, advance the Town HURF funds in accordance with paragraph II, 1c., d., and f. above.

B. Withhold from PAG, federal funds and the obligation authority of federal funds \$1,428,042.00 in Fiscal Year 2003 for construction.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The Town assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
FAX (602-712-7424

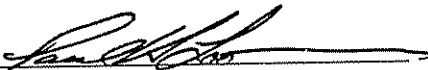
Town of Oro Valley
Town Manager
11000 N. La Canada Dr.
Oro Valley, AZ 85737-7015

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF ORO VALLEY

STATE OF ARIZONA
Department of Transportation

By 
PAUL LOOMIS
Mayor

By 
DALE BUSKIRK, Acting Division Director
Transportation Planning Division

ATTEST

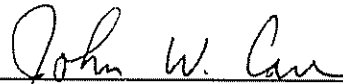
By 
KATHRYN CUEVELIER
Town Clerk

JPA 02-95

RESOLUTION

BE IT RESOLVED on this 12th day of August 2002, that I, the undersigned VICTOR M. MENDEZ, Director of the Arizona Department of Transportation, have determined that it is in the best interests of the STATE OF ARIZONA that the Department of Transportation, acting by and through the TRANSPORTATION PLANNING DIVISION, to enter into an agreement with the Town of Oro Valley, for the purpose of the exchange of \$1,170,000.00 in Highway User Revenue Funds (HURF) to the Town for the construction of improvements to Naranja Dr. - La Canada Drive, for the benefit and safety of the traveling public.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Acting Director of Transportation Planning Division for approval and execution.

A handwritten signature in cursive script, reading "John W. Carr", is written over a horizontal line.

JOHN W. CARR, P E. Staff Engineer
Development / Intermodal Transportation Division

RESOLUTION NO. (R) 02-78

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE STATE OF ARIZONA TO UTILIZE THE HURF EXCHANGE PROGRAMS FOR THE NARANJA DRIVE: LA CHOLLA TO FIRST AVE PAVEMENT REHABILITATION/RECONSTRUCTION PROJECT.

WHEREAS, ORO VALLEY is a political subdivision of the State of Arizona, is vested with all the rights, privileges and benefits, and entitled to immunities and exemptions granted municipalities and political subdivisions under the constitution and laws of the state of Arizona and United States; and

WHEREAS, the Naranja Drive: La Cholla to First Ave. pavement rehabilitation / reconstruction project is necessary for the public's health, safety and welfare in order to provide for the safe, preserve Town assets and efficient movement of traffic; and

WHEREAS, pursuant to Arizona Revised Statutes, Section 28-6993(f) local government may exchange Surface Transportation Program monies for state highway funds so named the State the HURF Exchange Program; and

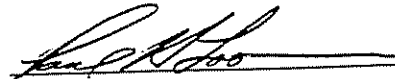
WHEREAS, the TOWN COUNCIL deems it necessary in the interest of providing for health, safety and welfare of the citizens of the TOWN OF ORO VALLEY to enter into an intergovernmental agreement with the State of Arizona for a HURF Exchange for Naranja Drive pavement rehabilitation / reconstruction from La Cholla to First Ave.

THEREFORE, BE IT RESOLVED, BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA:

That Mayor is authorized to execute the intergovernmental agreement on behalf of the Town of Oro Valley.

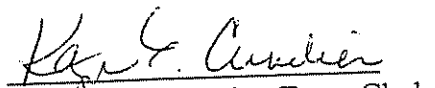
PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 18th day of September, 2002.

TOWN OF ORO VALLEY, ARIZONA



Paul H. Loomis, Mayor

ATTEST:


Kathryn E. Cuvelier, Town Clerk

9-23-02
Date

APPROVED AS TO FORM:


Dan Dudley, Town Attorney


9/23/02
Date

JPA 02-95

APPROVAL OF THE TOWN OF ORO VALLEY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF ORO VALLEY and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 20th day of August, 2002.



Attorney



JANET NAPOLITANO
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION
1275 WEST WASHINGTON STREET, PHOENIX, AZ 85007-2926

TRN Main: (602) 542-168C
Direct: (602) 542-8855
Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680
FACSIMILE : (602) 542-3646

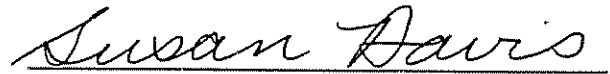
INTERGOVERNMENTAL AGREEMENT **DETERMINATION**

A.G. Contract No. KR02-1518TRN (JPA 02-95), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED October 21, 2002.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/srs

Att.